

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FREDDY FERNANDEZ, GIOVANNY GONZALEZ,
NEIL GUZMAN, FREDDY VASQUEZ, and LUIS
VELASQUEZ,

Plaintiffs,

-against-

KINRAY, INC., and CARDINAL HEALTH, INC.,

Defendants.

13 CV 4938 (LDH)(SMG)

ORDER OF DISMISSAL WITH PREJUDICE

This matter having come before this Court on Aug. 13, 2019 on the joint application of Freddy Fernandez, Giovanny Gonzalez, Neil Guzman, Freddy Vasquez and Luis Velasquez (collectively, the “Named Plaintiffs”) and Kinray, Inc. (“Kinray”) and Cardinal Health, Inc. (“Cardinal”) (together with Kinray, “Defendants”) for approval of the collective action settlement reached between the Parties on the terms set forth in the Collective Action Settlement Agreement made and entered into as of Aug. 13, 2019 (the “Settlement Agreement”) by, between and among the Named Plaintiffs on behalf of themselves and the Settlement Collective (as defined in the Settlement Agreement) on the one hand, and Defendants on the other hand (the “Settlement”); and

This Court having considered the parties’ application, and it appearing that the Settlement is fair, reasonable and adequate as to the Named Plaintiffs and the Settlement Collective; and

Having reviewed both the letter motion filed by plaintiffs dated Aug. 13, 2019, Docket Entry 412 seeking approval of the settlement agreement reached by the parties as well as the settlement agreement, Docket Entry 412-1; and in addition the letter dated Aug.. 20, 2019, Dkt. 415 and revised notice;

I find that “the agreement reflects a reasonable compromise of disputed issues [rather]

than a mere waiver of statutory rights brought about by an employer's overreaching." *Tuan Le v. SITA Info. Networking Computing USA, Inc.*, 2008 U.S. Dist. LEXIS 20786, 2008 WL 724155 (E.D.N.Y. Mar. 13, 2008)(internal quotations and citation omitted). See also *Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199 (2d Cir. 2015). In reaching this conclusion, I have considered, among other things, (1) that the settlement amount provides plaintiffs with a recovery of a significant portion of the overtime wages they claim are due to them and eliminates the risks presented by continued litigation; (2) that the attorney's fees portion of the settlement is consistent with the terms of plaintiff's retainer agreement and is for an amount equal to one-third of the total amount of the settlement, net of attorneys' and settlement claims administrator's expenses; (3) that the release provided for in the agreement is limited in scope; and (4) that the settlement agreement does not impose a duty of confidentiality.

Accordingly, **IT IS HEREBY ORDERED**, that the Court adopts the terms of the Settlement Agreement and the Parties must abide by and carry out the terms of the Settlement Agreement;

IT IS HEREBY FURTHER ORDERED, the Plaintiffs' counsels' attorneys' fees and expenses as set forth in their approval letter are approved;

IT IS HEREBY FURTHER ORDERED, that Rust Consulting is approved to perform the settlement administration duties set forth in the Settlement Agreement and is entitled to reasonable compensation and costs;

IT IS HEREBY FURTHER ORDERED, that notice to the Settlement Collective Members of the Settlement shall be in the form of the proposed Notice of Settlement Rights and Obligations to Opt-in Plaintiffs appended to the Settlement Agreement as Exhibit F ("Settlement Notice")^{*} and that the procedures and deadlines for Settlement Collective Members to return claim

* with the amendments indicated in Dkt. 415

forms or to submit a request to opt out of the Settlement set forth in the Settlement Notice and the Claim Form appended to the Settlement Agreement as Exhibit B are approved;

IT IS HEREBY FURTHER ORDERED, that all pending motions before the Court are terminated; and

IT IS HEREBY FURTHER ORDERED, that without affecting the finality of this Final Order and Judgment, the Court reserves continuing and exclusive jurisdiction over parties to the Settlement Agreement to administer, supervise, construe, and enforce the Settlement Agreement in accordance with its terms for the mutual benefit of the parties.

SO ORDERED on this 20th day of August, 2019



Steven M. Gold
U.S. Magistrate Judge
E.D.N.Y.

Digitally signed by
Steven M. Gold
Date: 2019.08.20
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Hon. Steven M. Gold, U.S.M.J.